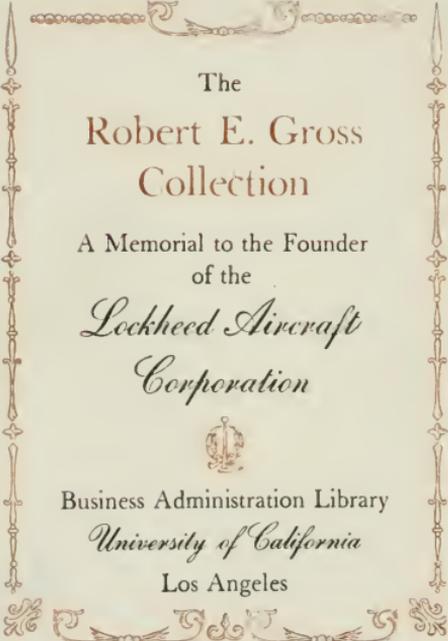




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LYTTLETON, GEORGE, Lord, 1st baron.

Farther considerations on the present state of affairs abroad, as affected by the late convention, in a letter with an appendix; containing A true state of the Spanish affairs in 1718 (London: Printed for T. Cooper, 1718)

First edition. The author discusses the Spanish and British ships trading with America, the boundaries of North Carolina, the freedom of British navigation and the actions of the Spanish Guarda Costas, and other matters between the two powers.

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FARTHER

CONSIDERATIONS

On the present

STATE of AFFAIRS,

A T

HOME and ABROAD.

[Price One Shilling.]

CONSTITUTIONAL

OF THE

STATE OF

MISSISSIPPI

FARTHER
CONSIDERATIONS

On the present

STATE of AFFAIRS,
A T

HOME and ABROAD,

As affected by the

Late CONVENTION,
I N A

LETTER to the MINISTER :

W I T H A N

A P P E N D I X ;

C O N T A I N I N G

A true State of the S O U T H - S E A Company's
Affairs in 1718.

Contra MERCATOR —
MILITIA *est* potior —

HOR.

Parumne multa mercatoribus sunt necessario pericula subeunda fortunæ, nisi etiam hæc formidines ab nostris magistratibus atque in nostris provinciis impendebunt ? CICERO.

L O N D O N :

Printed for T. COOPER, at the *Globe* in *Pater-*
Noster-Row.

MDCCLXXXIX.

FARTHER
CONSIDERATIONS

UPON THE

Present State of AFFAIRS at Home
and Abroad: In a LETTER to the
Minister.

S I R,

YOUR Counsels, by your own Reports, having had all the Effect of the most successful Arms, the Author of the following Pages begs leave, in Imitation of the old *Romans*, to use a little Freedom with his Superiors, in this Time of your Triumph. This Privilege survived the Liberties of *Rome*; nor did her most jealous Tyrants attempt to restrain it, tho' it was often carried to great Indecencies. At the same Time, he will endeavour to avoid repeating what has been said in other Papers, or Pamphlets, upon this Head, and confine what he has to communicate to Points either entirely untouch'd, or imperfectly understood.

A due Balance of Trade in the *West Indies*, as settled by Treaties, has been long looked upon as one of the most effectual Means of preserving that just Circulation of Treasure,

A

that

that is so necessary to the Preservation of the Balance of Power in *Europe*. For this Reason, every Encroachment of one Nation upon another, in that Trade, has been strictly guarded against in several Treaties, the principal Aim of which was to accommodate Differences in *Europe*. All these Treaties therefore may be look'd upon as so many Securities, which the contracting Powers have given to *Spain* for the peaceable Possession of her *American* Commerce and Acquisitions. So that, while these are in Force, and while she takes Care to regulate her Conduct according to the Intention of these Treaties, and the general Rights of Nations, she is in no Danger of being stript of any Right or Possession she can justly claim in *America*.

This will be plain to any one, who considers that the Treasures of the *West Indies* can be no where so well lodg'd, as in the Hands of a People, to whom neither Extent of Dominion gives *Strength*, nor Affluence of Treasure, *Plenty*. Whereas, should they fall into the Hands of a Nation more active and more industrious, that Nation may, by enhancing the Trade and engrossing the Treasures, soon create such a Dependency on herself, as may enable her in Time to give Laws to the rest of *Europe*. Therefore, if *Great Britain*, for Instance, should pretend to any Rights of Navigation, or cut out to herself any Branches of Commerce in the *West Indies* prejudicial to the Interests of *Spain*, or
inconsistent

inconsistent with the Treaties in Force which regulate that Trade, we would be sure of meeting with a powerful Interposition from the other Powers of *Europe* in favour of *Spain*, in case she were not in a Condition to do herself Justice. This is so evident, that it can admit of no Dispute with any Man, who knows ever so little of the Interests and History of the several States of *Europe*.

But the Danger of any Encroachments of this kind does not lye entirely on one Side. The Crown of *Spain*, by abandoning that Conduct which was formerly the greatest Security of her foreign Acquisitions, may render herself more formidable to her Neighbours, than is consistent either with her own Safety, or the general Interests of *Europe*. If this should ever happen to be the Case, there is not the least Doubt but that the other Powers of *Europe* will make it a common Cause, and endeavour to reduce her Ambition within those Bounds that are agreeable to the Sense of Treaties, and the Rights of Nations. This is a Truth, of which, by her late Conduct towards *Britain*, she seems to be fully sensible.

A Right of Sovereignty, which, according to her Maxims, she imagines she ought to enjoy in the *American* Seas, is certainly the Foundation of those Injuries and Insults, to which the *British* Merchants and Sailors have for some Time been subjected in their Commerce to and from their own Settlements.

Yet such is the Policy of that Court, that this Right of Sovereignty has never yet by them been openly asserted ; for this evident Reason, that had they avowed such a Claim, they must have drawn upon themselves the Resentment of their most formidable Neighbours ; because it is impossible for them to invent a Claim to a Sovereignty, in Prejudice of one, that would not have equally affected the Commerce of every Power in *Europe*, who possesses one Foot of Territory in *America*.

They have, therefore, wav'd insisting on an empty, obnoxious Name ; and have artfully evaded any Discussion of *General Rights*, by amusing us with Intricacies of *particular Facts*. By this Management the other Powers of *Europe* have hitherto been induced to think, that the Differences betwixt *Spain* and *Great Britain* have no other Foundation than some *mutual Injuries*, and a few *doubtful Captures*. Nay, as Matters have gone on, I am persuaded some of them are inclined to believe that we have been guilty of gross Violations of Treaties, and are not at all displeas'd to find that *Spain* has Spirit enough to make us pay dear for every Encroachment upon her Rights, and to make us more cautious how we make any such Encroachments for the future. Thus, Sir, our Neighbours look upon our Differences with *Spain* to be of such a Nature, as that they never can affect themselves, whatever is the Event.

I shall not enter, Sir, into any Discussion of those Treaties, upon which our Rights of Trade and Navigation to *America* are founded; they have already been under the Consideration of an Assembly, whose Counsels *deserve* greater Deference than, as it appears, they can *command*. I shall therefore proceed to some Observations upon the Conduct of our Negotiators in this important Point.

From what has been said I humbly presume, that *Spain* shall no sooner endeavour to affect those Rights of Commerce enjoy'd by any of the Powers, who have a Share of Property in *America*, than she not only draws upon herself an Opposition from those Powers, but makes it the common Cause of all *Europe*.

But how does it appear, that this evident Truth has been understood by our Negotiators? Does it appear, to the World at least, from the various Negotiations that have been carried on betwixt us and *Spain*, that they have fairly stated the Points of Difference betwixt us? Does it appear, that an explicit Answer has either been demanded or given to the only Point upon which our present Differences can possibly be founded? That Question was plain and short, and might have been thus stated: "Do you *Spaniards* pretend to search our Ships, because they sail near your Settlements, and to confiscate them, because they have on board Goods that are the Product of your Plantations?" This Question,

stion, Sir, I say, was the proper Hinge on which the whole Difference betwixt us and *Spain* ought to have turned; and an Answer to this must have been more decisive than the most complete Victory; for had the *Spaniards* answered in the Negative, "That they pretended to no such Right," the great End of our Security for our Navigation and Commerce had been then obtained, and Reparation for past Injuries would have been a natural and a necessary Consequence of this important Concession.

I cannot however help observing, that a Restitution for the past Losses of our Merchants, even tho' that Restitution had been ample and adequate, is but a trifling Consideration, when put in the Balance with the Security of our Rights to a free and uninterrupted Navigation in these Seas. And, that if any thing was to be left to the Decision of Plenipotentiaries, it ought to have been the *Estimate* of these Captures, and not the *Construction* of plain and positive Treaties. But rather, Sir, let me ask you, what Plenipotentiary will dare to treat away the Commercial Rights of a trading People, or even admit them to be subjected to his Discussion? The particular Value of the Ships and Cargoes may indeed properly come under the Cognizance of Commissioners, or Plenipotentiaries, who are to take Care, that not only the Losses themselves, but the Value of these Losses shall be fully proved. But a *British*
Plenipo-

Plenipotentiary may as well pretend, that his full Powers are a sufficient Warrant for his giving up any City or Territory *belonging* to the *Crown*, as that they can warrant him to give up any Right or Privilege *enjoy'd* by the *Subject*:

Therefore, Sir, I am glad of having an Opportunity of expressing my self on this Point. I am glad of having an Opportunity to let the World know, that it could never be the Intention of the Ministry, that any of the Rights of this Nation should be 'subjected to the Discussion of the Plenipotentiaries named in our late Convention with *Spain*. No, Sir, I hope I do not flatter, when I say that our Ministry has too great a Regard to the Sense of Parliament, to presume, even to suppose those Rights to be *questionable*, which the Parliament has already declared to be *just* and *undoubted*. It is true, one may unluckily ask me, " If the Sum to
 " be paid for the Damages of our Merchants
 " is already stipulated; if the Rights of our
 " Navigation are *just* and *undoubted*, and un-
 " subjected to any future canvassing, I should
 " be glad to know what those Matters are,
 " which, by the late Convention, are to be re-
 " ferred to the Decision of Plenipotentiaries,
 " besides settling the Limits of *Carolina* and
 " *Florida*?" Really, Sir, if such a Question were put to me I should be at a great Loss for an Answer: I believe I should even tell my Friend, that somewhat was certainly to be referr'd to Plenipotentiaries, tho' I could not tell
 what

what it was ; but that I entirely trusted to the Wisdom of the Ministry, who to be sure had their own Reasons for what they did.

Having mentioned *Florida*, I cannot help taking Notice of another unlucky Circumstance that must greatly puzzle your Friends to account for. It is no Secret to the World, that the *Spaniards* have look'd upon our Settlements of *Georgia*, and a great Part of *Carolina*, as Territories dismember'd from their Empire in *America*, and have shewn great Indications of an Inclination to strip us of both these Colonies. Now, Sir, the most effectual Way for persuading the Nation that these two Provinces are to remain in our Hands, was to have alter'd the Word *Florida* into that of *Georgia*. This would have been a tacit, if not an express, Acknowledgment from the *Spaniards*, of our Right to that Settlement ; and have at least imply'd, that tho' possibly some Differences may have arisen about the *Boundaries*, yet the *Possession* was to remain with us. Whereas no body can now know where the *Boundaries* of *Florida* may be fix'd by these Plenipotentiaries, and whether they may not comprehend all *Georgia*, and a great Part, if not the Whole, of *Carolina*.

Thus far, Sir, I have reason'd upon a Supposition, that, if the peremptory Point of *No Search upon the open Seas* had been put to the *Spaniards*, they would have given it up. I shall now use the Freedom to take a View of
the

the Consequences that must have attended their insisting on any such *Search*. Tho' the Searching of *British* Ships may not indeed seem to affect the Commerce of any of our Neighbours, yet it is founded on Reasons, which, had our Negotiators set in a proper Light, must have alarm'd all *Europe*, and interested every Nation, who has one Foot of Ground in *America*, equally with our selves. The *French*, the *Danes*, the *Dutch*, have each considerable Settlements there; and it is well known to every Man, who has the least Acquaintance with that Trade, that in every Voyage they make, they import from *America*, into their own Country, Commodities that are not the Product of their own Settlements: And this they are absolutely obliged to do, in order to carry the Trade on with any Profit. One Nation imports Sugars from a Colony of their own, which never produced one Hoghead of that Commodity, another Rum, another Logwood, and another Tobacco, tho' it is well known, that these are no part of the natural Product of the Country where they last took in their Lading. Now, Sir, if a Suspicion of having *Spanish* Commodities on board is a good Reason to the *Spaniards* for searching a *British* Ship on the open Seas, and of Confiscation, if found on board that Ship; has not every other Nation an equal Right to search and confiscate all Ships they shall meet with, who have on board any of the Commodities that is not the

natural Product of the Place from which the Vessel is bound, and is the Product of Settlements belonging to the Captors? They certainly have; for all Trade betwixt any other Nation and the *French*, the *Dutch*, or the *Danish* Settlements in *America*, is under as rigorous Prohibitions, as the Trade betwixt any Part of the *British* Dominions and the *Spanish West Indies*; and all Trade of the *Dutch*, or the *French*, or the *Danes*, to the *Spanish West Indies* is under the same Restrictions.

Therefore, it is impossible for *Spain* to invent any Reason for searching the *British* Ships, that does not equally affect all other Nations trading to *America*. And there is not the least Reason to doubt, that if we had refused all Accommodation with the *Spaniards*, till they had explicitly declared their Minds on this Head, the other Powers of *Europe* would have looked upon our Case with regard to *Spain* at present, as what may be their own hereafter. By this Means, if *Spain* had insisted on this unwarrantable Claim, there would have been but little Occasion to involve the Nation in an immense Expence to procure us Satisfaction. *Spain* would not, she durst not, have insisted long, unless she had been so romantickly stubborn, as to hazard a War under almost every Disadvantage that can be imagined.

But tho' we at present enjoy all the Rights of Commerce in *America*, to which other Nations are entitled, yet it is possible that we
 may

may give up one Right which may render our Possession of the others ineffectual ; while our Neighbours, refusing to subject their's to any Innovation whatsoever, may preserve them free and inviolate. In such a Case, they would, no doubt, be very glad if we were stripped of our Rights, if it can be effected without endangering their own. By these Means they could carry on that Trade to greater Advantage ; nay, *Spain* would be sure of their Assistance to oblige us to the Observance of any Treaty which we may conclude to our own Ruin.

The Freedom of the *British* Navigation and Commerce in *America* is as strongly guarded as can be done by the most express Words ; and no Alteration can be made in it but for the worse. By the 8th Article of the Treaty of 1670, no *British* Ship is to sail to, or traffick in, any *Spanish* Ports or Settlements, and no *Spanish* Ship is to sail to, or traffick in, any of our Ports. What is the Consequence, Sir, of this Stipulation ? Does it not expressly imply, that provided we do not trade in their Ports we do not carry on an illicit Trade ? But will it ever imply, that if, in carrying on our Commerce to and from our own Settlements, we approach their Settlements, our Ships and Cargoes are therefore to be seized and confiscated, our Seamen mangled and imprisoned ? It is true, the *Spaniards* may, and, I believe, do pretend, that if it appears to *Them*, that a Ship has un-

necessarily changed her Course to approach any of their Settlements they have a Right to search that Ship, and to confiscate her, if *Spanish* Commodities are found on Board. This I have heard many Times asserted, both by the Friends of *Spain* and of our Ministry ; but if it should be admitted by the Ministry, that a *Spanish Guarda Costa* is the proper Judge of the Course a *British* Vessel ought to hold, we may then bid adieu to every Branch of Navigation, and every Advantage of Commerce we have ever possessed in, or drawn from, *America*. This Claim is not only unjust in itself, but, as the Treaties betwixt us now stand, it is next to impossible for the *Spaniards* to have any fair Proof of a *British* Ship trading with their Settlements, besides the Testimony of the Captors themselves. They can have no full Proof that a Ship's Course has been unnecessarily changed, but from the Master of that Ship, whom we can never suppose to be Fool enough to own it. It is equally improbable they should be able to prove that such a Ship was trading in the *Spanish* Ports, because that must be done only by the Testimony of the *Spanish* Officers in that Port, who are guilty either of a Breach of Trust, or the greatest Negligence, in not seizing such a Ship the Moment she broke Bulk, or disposed of one Shilling's worth of Goods there in the way of Trade : So that if we should once admit the *Spanish Guarda Costas* to be Judges of
 what

what Course a *British* Ship ought to hold in her Navigation from one Part of his Majesty's Dominions to another, or if we should admit the least Variation from the Treaty of 1670, we in effect subject the *British* Navigation in these Seas to the Mercy of its old and natural Enemies. And if, without the least Colour of Justice from any Concession on our Part, they have already treated the *British* Traders and Seamen with the most unheard of Insolence and Cruelty, what Injustice can we suppose they will not be guilty of, if they have so much as the Shadow of any Sanction from the Acts of our Ministry or Plenipotentiaries?

But it may be here objected, if the *British* Vessels are not to be stopped and searched by the *Guarda Costas*, how is it possible for the King of *Spain* to prevent the Violation of the Treaty of 1670, which plainly stipulates a mutual Prohibition of Trade to both Nations? The Answer to this is plain and easy. A mutual Prohibition of Trade is certainly stipulated, but it is as certain from the whole Tenor of that Treaty, that the Violators of this alone are to suffer, and that nothing more is imply'd by the mutual Consent, which the contracting Powers gave to the 8th Article of that Treaty, than that it is lawful for either Nation to punish the Subjects of the other Nation who should be found carrying on a Trade *in their Ports and Harbours*. This Construction of that Article sufficiently secures all the

Rights which the King of *Spain* can justly claim from any Treaty, provided his own Officers and Governors serve him faithfully. But if any of them have found their own Interest in betraying that of their Master, is it reasonable that the *British* Navigation should be subjected to almost unsurmountable Restrictions at the Pleasure of the Master of a Petty *Guarda Costa*, who perhaps has paid dear for his Commission with a View of repaying himself by the Plunder of our Merchants ?

The best way, therefore, to prevent the Intention of the *American* Treaty from being frustrated, is, by the King of *Spain* laying his Officers and Governors in the *West Indies* under such Regulations as that the fair Trader may be protected, and the Interloper punished. Whereas at present the Case is quite the Reverse; and the Interlopers, by importing Commodities into the *Spanish* Settlements, and making Matters up with the Governors and Officers, have double the Profit, that any Merchant, under the present Discouragements of Commerce, can clear in a lawful way of Trade betwixt any of our *American* Settlements and *Great Britain*. The many Villainies of this Kind, that have been practised, have, no doubt, been of very great Prejudice to the Revenue of *Spain*, and they may have been represented in such a Light at that Court, as inclines it to believe that they are entirely owing to the clandestine Commerce carried on by

by *British* Subjects, who are privately supported and encouraged not only by our Merchants but by our Governors. But, Sir, it is our Business to undeceive the *Spanish* Court in this Point if it has received any such Impressions. We ought to let it know that the Interest of *Britain* and the Interest of *Spain* in the exercise of the *American* Commerce, if rightly considered, are the same; and that it lyes at their Door to remove these Grievances, by laying their Governors under proper Regulations, and putting them on such a Footing as that their Duty and Interest may be inseparable.

This, Sir, is the proper and only Method, that, consistently with our Rights, *Spain* can pursue for rendering the Advantages stipulated in her Favour by Treaties effectual. For while every *Spanish* Governor in the *West Indies* shall dare, with Impunity and Success to himself, to violate the Law of Nations and the Duties of his own Station, there can be no End of Grievances on both Sides. A clandestine Trade will be carried on, tho' our Government should even exert itself to suppress it, and unlawful Captures will be made, even tho' the Court of *Spain* should be sincere in its Endeavours to prevent them. But is it reasonable that for the Acts of a few Smugglers amongst our selves, we should give up the only Right, the only Security, which our lawful Traders can possibly have, in their *American* Commerce, by admitting the Treaty of 1670 to be
 subjected

subjected to any Discussion, or to be liable to receive any other Meaning than what it presents at first Sight to every Man of Common Sense who reads it? Is it not plain, Sir, to every Man who reads that Treaty, that, as in *America* we can have no lawful Trade with the *Spanish* Settlements, therefore, we ought to be subjected to no Search from their *Guarda Costas*, nor to any Confiscation unless we are actually trading in their Ports? Ask any Man, Sir, who has the least Acquaintance with that Trade, if their Ignorance of the Coasts, the Strength of the Tides, and the Uncertainty of the Winds, does not sometimes force our Sailors to make the *Spanish* Coasts, be their Caution to avoid them ever so great. And is it not plain to every Man, who throws his Eyes upon a Map of *America*, and sees the Situation of our and the *Spanish* Settlements there, that, if our Plenipotentiaries should admit even of a Possibility of a Case happening, in which the Searching and Confiscation of a *British* Ship not in the *Spanish* Harbours may be lawful, no Vessel navigating betwixt one part of his Majesty's Dominions there to another can be safe?

Having from self-evident Principles, and, I hope, undeniable Consequences, proved that we can have no Freedom or Security of Navigation, but by strictly adhering to the Treaty made in the Year 1670: I shall now take the Liberty to consider how well this material
Point

Point has been understood by those who made the Treaties of *Madrid* and *Seville*, the one in the Year 1721, the other in the Year 1729; the second Article of the former Treaty says,

“ That the Treaties of Peace and Commerce concluded at *Utrecht* the 13th of *July*, and the 9th of *December*, in the Year 1713, wherein are comprehended the Treaty made at *Madrid* 1667, and the *Cédulas* therein mentioned, shall remain confirmed and ratified.

After what has been said on this Subject I cannot help thinking, it is pretty odd that the only Treaty, by which our Navigation on these Seas is secured, should not have been confirmed as well as other Treaties, by those who had the Management of this Negotiation; and till I hear farther, must be of Opinion that this Omission was one great Handle for these Violences which were committed by the *Spaniards*, betwixt the Years 1721, and 1732.

In the first separate Article of the Treaty of *Seville* we read these Words.

“ Altho’ conformably to the Preliminary Articles, it is said in the fourth Article of the Treaty signed this Day, that the Commerce of the *English* Nation in *America* should be established on the Foot of the Treaties and Conventions antecedent to the Year One Thousand Seven Hundred and Twenty Five, however, for the greater Exactness, it is farther declared, by the present Article be-

“ tween their *Britannick* and *Catholick* Maje-
 “ sties, which shall have the same Force, and
 “ be under the same Guaranty as the Treaty
 “ signed this Day, that under that general
 “ Denomination are comprehended the Trea-
 “ ties of Peace and of Commerce, concluded
 “ at *Utrecht* the thirteenth of *July* and ninth
 “ of *December*, in the Year 1713. in which
 “ are comprised the Treaty of One Thou-
 “ sand Six Hundred and Sixty Seven, made at
 “ *Madrid*, and the *Cedulas* therein mentioned.
 “ The latter Treaty made at *Madrid* the 14th
 “ of *December* 1715. as also the particular
 “ Contract, commonly called the *Assiento*,
 “ for bringing *Negroe* Slaves into the *Spanish*
 “ *Indies*, which was made the 26th Day of
 “ *March* in the said Year 1713, in Conse-
 “ quence of the 12th Article of the Treaty of
 “ *Utrecht*.

Here, Sir, we see the very same Omission ;
 and I cannot but think that our Ministers have
 been imposed on when they agreed to the se-
 cond separate Article ; where it is said “ That
 “ all Ships, Merchandize and Effects, which
 “ shall not have been taken or seized on Ac-
 “ count of unlawful Commerce, and which
 “ shall now be proved by authentick Proofs
 “ and Documents, to have been seized, de-
 “ tained, or confiscated in the Ports of *Spain*,
 “ either in *Europe* or in the *Indies*, and
 “ namely, the Ship *Prince Frederick* and her
 “ Cargoe, if they have not been restored already,

“ shall be immediately restored.” I say, Sir, that I think, that as the mention of the Treaty of 1670 is here omitted, the Words, *which shall not have been taken or seized on Account of unlawful Commerce*, subjected all those Ships to Confiscation, in which the *Spaniards* had found *Spanish* Specie or Commodities; tho’ there is nothing more clear than that the *British* Ships may have both *Spanish* Commodities and *Spanish* Specie on Board, and yet not be concerned in an illicit Trade. But unless we have an absolute Concession from *Spain* that *no Ships shall be searched*; that no Seizure shall be made, except when a Ship is found trading in her very Ports; and this we can fairly claim by the Treaty of One Thousand Six Hundred and Seventy; I say, Sir, unless we can obtain this of the King of *Spain* our Merchants can have no Safety. Besides, I never heard it said that the *Spaniards* ever pretended that any of the Ships which they had at that time confiscated, were seized in their Ports or Harbours; if this was not pretended, there was no Occasion for such a Clause; and no doubt our Negotiators might with good Reason have insisted that in every other Case, in which a *British* Ship is seized, the Captors are guilty of Piracy, they might and ought to have insisted, that therefore they should be delivered up to Justice; and if upon Trial it had been found, that they acted from Authority of any Minister at the Court of *Spain*, they ought

to have insisted that his Catholick Majesty should have disowned what his Minister did. And here I must take notice of one very remarkable Article, which is the fourteenth of the Treaty of 1670. The Words of this Article are these,

“ Particular Offences shall no way be a
 “ Prejudice to this Treaty and Cause, no En-
 “ mities or Dissentions between the two Na-
 “ tions, but every one shall answer for what
 “ he has done, and be prosecuted for it.
 “ Neither shall the one have Recourse to Let-
 “ ters of Reprisal, or any other Methods of
 “ the like Nature, unless Justice is actually
 “ denied, or unreasonable Delays used in
 “ administring the same.”

By these Words the Offender, be his Station ever so high, was answerable to that Nation against whom the Offence was committed; we likewise see by the latter part of this Article that Letters of Reprisal may be granted, and other Methods of the like Nature may be taken, when Justice is either actually denied or unreasonably protracted. Will the best Friend that the Court of *Spain* has in this Kingdom deny that Justice was unreasonably protracted? Does it not appear from the Memorials of the *Spanish* Ministers themselves, that no Regard was had even to the Cédulas dispatched from the Court of *Madrid* to their Governors in the *West-Indies*? Must it not therefore follow, that either these Governors had

had secret Instructions from the Crown of *Spain* to act as they did ; and in that Case, there is not the least doubt but that Justice was actually denied, or that our Ministers were guilty of the greatest Pusillanimity in not requiring the Offenders to be delivered up to Justice ? Had this been done our Navigation and Commerce in the *West-Indies* had soon felt the good Effects of our Resolution ; but as it was not done, as not one Step was made by our Negotiators, except presenting a Number of fruitless Memorials, to obtain Satisfaction for our Losses, where is the Wonder if the *Spaniards* should continue their Depredations, since they could do it with Impunity ? It is true, that the Distance betwixt his Catholick Majesty's *European* and *American* Dominions is so great, that it is not to be expected that the proper Documents, either of the Breach of Duty in the *Spanish* Governors, or of the Nature of the Seizures made by them on the *American* Seas, can be transmitted so soon to the Court of *Madrid* as the Impatience of our Sufferers requires.

Though this was a very good Argument at a Time when the *Spanish* Insolence was in its Dawn, it is a very bad one after two or three and twenty Years Continuance. You may your self remember that when the Address for a War with *Spain*, in the Year 1718, was presented from the Commons to his Majesty, a certain Gentleman who had Occasion to
know

know a good deal of the *Spanish* Court, and who was on the same Side of the Question with your self, took Occasion to apologize for the Delay of Justice from *Spain*. He shewed from the manner in which commercial Affairs was treated in *Spain*, and the variety of Courts and Judicatures, through which the requisite Proofs and Documents were to go, that it was not to be wondered at, if some Delays had been used in answering the Demands of our Merchants; and his Arguments made some Impression on the House. But this would be a very odd Piece of Reasoning at this time Have we not served *Spain* in every Measure that she has set on Foot in order to aggrandize her self? Have we not granted her, and punctually fulfilled Treaties the most advantageous in her Favour? And can any Man say that she has shewed us the least Return of Gratitude? Have not the Obstacles she threw in the way of our Navigation and Commerce risen in Proportion as the Marks of Esteem and Friendship, we so profusely heaped upon her, increased? And have not these Marks of Esteem and Friendship increased in Proportion as her Ambition extended; or the Power that supported her Insolence gathered Strength? And have we not, for these twenty Years past, kissed the Rod that chastised us, and courted the Hand that smote us? All this, Sir, is so undeniable, that the best Friend you have in the World may be defied to prove one Advantage, except

except the Character of *forgiving Christians*, that we have reapt by all the good Offices we have done to her, or one Article of the Treaties, so far as they made for us, that has been fulfilled by *Spain*. Nor can any Friend of *Spain* pretend, that any one Article in their Favour has been unfulfilled by us.

When the Treaty of *Seville* was made it was thought by many to be a bad Treaty, even though the Stipulations in our Favour had been punctually fulfilled by the *Spaniards*. I believe you have some Reasons for remembering, that some remarkable Pamphlets were wrote at that Time, to persuade the Nation that we had made a Peace, which put us in a better Condition than any we had been in since the Revolution; tho' the Reasoning that supported this Assertion was prov'd, and generally thought to be very bad, even upon the Supposition that the Stipulations of that Treaty in our Favour had been punctually executed. But how must it sound to Posterity, when it appears, that even the Terms we got by that Treaty were never fulfilled? and what a Figure must that People make in History, who have Terms imposed upon them, when they are in a Condition to impose them on others, and tho' possess'd of Power, are destitute of Spirit, to command the Observance of those very Terms, poor as they are! It can never be pretended that any new Rights remain to be adjusted betwixt us and the *Spaniards*. It can never be pretended,

pretended, that since the Treaty of *Seville* they have committed one Species of Insolence or Rapine, that they were not guilty of before that Treaty was concluded. Nay, I am afraid many Circumstances have happened, and those too brought about by our own Counsels and our own Armaments, that may make them more regardless of their Treaties with us than ever: And it is no hard matter to foresee, that *Spain* by a bare Continuance of her Breach of Faith, and we, by renewing our Preparations for War, while we trust to Treaties of Peace, may soon deprive *Great Britain* even of the poor Satisfaction of being able, every Year, to send out a formidable Fleet, to beg for an unregarded Treaty.

There is no Occasion for us to run so far back, as to the Days of *Elizabeth* and *Cromwell*, to bring Instances of the *British* Impatience under Injuries that affected her own Interest and Honour, or those of her Allies; we need only take a View of the Conduct of the late Reign, during a Period wherein you thought it no Dishonour to own your self to be a Country Gentleman, in the Face of an august Assembly. This Period will, I believe, be easily guess'd by every Reader, when he reflects, that there was a Period since you came into the Administration, when *Great Britain* by one bold; just, and necessary Blow made herself formidable to her Enemies, and trusted by her Allies. It was a Period, when the fruit-
less

less Solicitations of our Ministers only for one or two Years were thought by the Ministry to be a just Ground of a War with *Spain*; and when the Commons voted, " That they would vigorously assist and support his Majesty in the War with the King of *Spain*, till *Spain* was reduced to accept of reasonable Terms of Peace, and to agree to such Conditions of TRADE and COMMERCE, as this Nation is justly entitled to by their several Treaties." When an Address in these Terms was proposed, you may remember, that several Members, who then were and still continue in the Opposition, were of Opinion, that it was a little unadvisable for us to venture all at once upon a War with *Spain*, till we did our utmost to procure Satisfaction to our Merchants in an amicable Way. But, upon an Honourable Gentleman (who is since a Noble Lord) declaring, that he had presented at least five and twenty Memorials to the Court of *Spain*, in relation to the Complaint of our Merchants, without any Success, the Address was voted.

Here was a Ministry and a House of Commons who thought their Prince's, the Nation's, and their own Honour so much engaged to resent the Loss for one or two Years spent in fruitless Solicitations, and the Refusal of five and twenty Memorials of our Ministers, that they voted for a War: What Resentment would such a Ministry have shewed, had the Solicitations been continued, instead of one

Year for one and twenty Years ; and instead of twenty five, had the *Spaniards* rejected six times that Number of Memorials ? for I believe no fewer have been ineffectually presented by our Ministers since that time. What Resolutions would not such a House of Commons have come to, had these piratical Practices been continued by the *Spaniards* in Defiance of the most solemn Engagements, and in Breach of the most advantageous Treaties in their Favours, by us punctually fulfilled ? And here it may not be amiss to observe, that tho' the King of *Spain's* attacking the Emperor in *Sicily* was the Reason why our Court gave Orders to Sir *George Byng* to attack the *Spanish* Fleet, before any formal Declaration of War was made on either Part ; yet *the Security of our Commerce and Navigation, and the procuring Satisfaction for our Merchants,* were the Grounds of the Address at that time presented by the House of Commons. And it is very remarkable, that this Address was in Consequence of a Message sent by his late Majesty to the House, in which, without taking any Notice of the Affair betwixt the Emperor and *Spain*, it is said, “ That
 “ all his Majesty's Endeavours, and those of
 “ the most Christian King, to procure Re-
 “ dress of the many Injuries done to the Sub-
 “ jects of *Great Britain* by the King of *Spain*,
 “ to the unspeakable Detriment of the Trade
 “ of these Kingdoms, or even to obtain a
 “ Discontinuance of the unjust Hostilities
 “ carrying

“ carrying on by that Crown, having prov'd
 “ ineffectual, his Majesty had found it neces-
 “ sary to declare War against *Spain*.” These
 Words shew us, that the King of *Great Britain*
 looked upon the Violences committed upon his
 trading Subjects as a Breach of the Treaties
 subsisting betwixt the two Crowns, and an ac-
 tual Commencement of Hostilities on the Part
 of *Spain*. And if the vigorous Conduct of
Great Britain at that Time has been since at-
 tended with Consequences no way for her In-
 terest, it must be owing to a Change of Mea-
 sures introduced by a succeeding Administra-
 tion.

Such were the Politicks, and such was the
 Conduct of a Period wherein you was a
 COUNTRY GENTLEMAN ; and tho' there is
 no Occasion to consider how well we have act-
 ed up to these Maxims since you came to be
 a FIRST MINISTER, yet it may not be amiss
 to take a View of some of the good Effects
 that the late Pacific Measures we have enter'd
 into with *Spain* must have upon the Naviga-
 tion and Trade of *Great Britain*.

One of the most plausible Arguments I have
 yet heard advanced in Defense of our Conduct,
 is, that in case we had enter'd into a War, our
 Trade might have run into other Channels,
 from which it would have been difficult, if
 not impossible, to have diverted it into its old
 Course, even on the Conclusion of the most
 advantageous Peace. I shall not at present

enter into any Discussion how well this Argument is founded, but shall beg Leave to consider how well this Inconveniency has been obviated by the Convention lately concluded with *Spain*. In the first place, so far as occurs to me from the Perusal of the Convention, the Crown of *Spain* has no otherwise disavowed the late unjustifiable Captures and Barbarities of her Subjects upon the *British* Merchants and Sailors, than by a Stipulation that the Proceedings of the Plenipotentiaries, who are to meet for regulating the Grievances, shall be according to the preceding Treaties now in Force betwixt the contracting Powers. Really, Sir, as I hinted before, this is to me a very unintelligible Stipulation. If, as the Parliament has declared, the Rights of our Navigation and Commerce, as founded on these Treaties, are *just* and *undoubted*, what is to be regulated? For I believe the *Spaniards* themselves cannot pretend, that one of the Captures they have made was consistent with the Sense in which the *British* Parliament understood these Treaties; and if there is any Doubt, if a *British* Parliament was mistaken in the Construction of Treaties upon which the Rights of *British* Subjects are founded, I should be glad to know what Security our Merchants are to have in carrying on their Commerce to *America* during the eight Months allowed to the Plenipotentiaries for finishing the Treaty.

I imagine,

I imagine, Sir, that during that Time People will be much more backward in hazarding their Effects betwixt one Part of *America* and another; or betwixt *America* and *Britain*, than they were before this Convention was signed. And the Reason is plain : Before the Convention was signed, it was the *general* and the *firm* Opinion both of the *Parliament* and the *People*, that all the Captures made by the *Spaniards* were unlawful, and that the *Sufferers* would be amply *indemnified*, or their *Injuries* severely *re-venge*d. This Notion gave them some Encouragement to prosecute that Trade with all the Disadvantages it then labour'd under. But who amongst them will now be so bold, as to risque his Interest, when he is not sure but that the most cautious, the most inoffensive Method in which he can proceed, may make his Person liable to Imprisonment, and his Goods to Confiscation? The *Spaniards* cannot now have the least Check upon their Insolence and Rapine ; for let them commit ever so many Instances of both, they go all to the same Account. They find, that hitherto they have had no Reason to repent, and why are they to fear it for the future? *Happen what will*, say they, *we are safe at least for these eight Months, and at the End of these, if it shall be found that we have acted amiss, it is but setting on foot a new Negotiation, and refunding about Five per Cent. of our Plunder, and all is well; and it shall cost Great Britain ten times that Sum before she recovers even that.* This

This is the Manner in which the *Spaniards* will reason, and this is the Manner in which it is plain they have reasoned all along; and is a natural Way of Reasoning in a People, who can with Impunity, nay, with Advantage, gratify their hereditary Aversion to another. They thus reconcile their *Interest* to their *Revenge*, and their *Revenge* to their *Religion*. In the mean time what Sentiments must arise in every honest *British* Heart, subjected to all the Miseries of *War*, when over-power'd; and, when Masters, obliged to proceed with all the Civilities of *Peace*! And, what must add to their Indignation, is, that these Miseries are inflicted by Orders of a Prince, whose Subjects were formerly really as much inferior to ours in the *Field*, as his Ministers now vainly flatter themselves they excel ours in the *Cabinet*.

But lest these Suppositions and Reasonings should be looked upon as Invectives rather than Arguments, I shall beg leave only to put you in mind of the Contents of the second separate Article of the late Convention. We there see the Capture of a *British* Ship by the *Spaniards* left to the Decision of the Plenipotentiaries, tho' she was in a fair Trade, and allowed to be sailing from one of her own Islands. She is indeed order'd to be restor'd, but on what Condition? That the Owners of the Ship give Security to Don *Thomas Geraldino* to abide by what shall be decided thereupon by the Ministers Plenipotentiaries. What are

are these Ministers to decide upon? Are they to decide, that a Ship in a fair way of Trade, sailing from one of our own Settlements, not pretended to be within Sight of one of theirs, and loaden with our own Commodities, is, or is not, a lawful Capture? With equal Justice it might have been referr'd to the Decision of these Plenipotentiaries, whether it is lawful in the *Spaniards* to seize a Ship in the Mouth of the *Thames*, sailing from the Port of *London*, and with a Clearance from our Custom-house. What Merchant, after this, will think himself safe in any Latitude on the *American Seas* from the Violences of a *Guarda Costa*, superior in Strength to that of his own Vessel? Can any Instance be given of a Ship with more unexceptionable Circumstances attending her Navigation? Or can your best Friend point out one Reason why such a Ship becomes a doubtful Capture, except, that she belonged to *Britain*, and was sailing in the *American Seas*?

Here, Sir, I am aware it may be objected, there is nothing more stipulated by this Article, than that before the Ship, or its Value, is restored, the Owners shall give Satisfaction to sustain the Price which the Ministers Plenipotentiaries shall put on that Ship and her Cargo, to be a full and an adequate Satisfaction for the Capture. But the very Words of the Article sufficiently answers this Objection. If the Ship and her Cargo is specifically to be restor'd, there

there is then no room for any Arbitrators or Judges; and if the Value is to be restored, we find by the latter part of the Article, that Restitution shall be made, not upon the Decision of the Plenipotentiaries, but according to the Sense of Treaties; but the Plenipotentiaries are in the mean time to be Judges of the Sense of these Treaties. So that the plain *English* of the whole is, that the Plenipotentiaries shall be Judges, whether or not the Treaties antecedent to the 10th of *Decemb.* 1737. allow a *British* Ship to be confiscable, tho' it is agreed on all hands, that she was sailing from one of our own Settlements. This, Sir, I say is the Construction which your Enemies will make of this Article; tho' I am persuaded it must have some other Meaning, tho' I own my self to be so dull that I cannot find it out.

There are other Circumstances attending this Convention, that seem to lay our Merchants under inextricable Perplexities in their Trade to their Settlements in *America*.

It has been said, that the King of *Spain* by paying 95000 Pounds, has, in effect, disowned the piratical Proceedings of his Subjects, that gave rise to the Differences betwixt the two Crowns. It is indeed mentioned in the Convention, that this is a Balance due to the Crown and Subjects of *Great Britain*, after Deduction made of the Demands of the Crown and Subjects of *Spain*. But it seems a little unreasonable, that the Claim of one Crown
upon

upon another should be satisfied out of the Effects of private Persons. It seems equally unreasonable, that if any of the Subjects of *Britain* have robb'd or plunder'd the Subjects of *Spain*, the Party injur'd should be indemnified out of the Effects of Persons no way necessary to the Robbery, and no way sharing in the Plunder.

If the stipulated Sum is in full of all the Losses we have sustained, or if the Deduction that has been made is but a Trifle, another, and a still a greater, Difficulty occurs. It is certain that the Losses our Merchants have sustained amount to more than double that Sum: Therefore it follows, that the 95,000 Pounds is to indemnify only those Merchants who were robbed while they were in a fair way of Trade. Now, Sir, as it is not specified by any publick Act, what is, or what is not an illicit Trade, how shall our Merchants, during the eight Months allow'd to the Plenipotentiaries for finishing their Negotiation, know what particular Branches of Trade and Navigation fall under the Denomination of *Illicit*. If they are to judge by the Treaties in force betwixt *Great Britain* and *Spain*, none of the Captures complain'd of are justifiable, because none of them were made in the *Spanish* Ports or Harbours; and if they are to judge by this Convention, the Captures which they think to be most illegal *may* be legal, because one of them wherein the most favourable

able Circumstance concurr'd for the Sufferers, is admitted to be *doubtful*.

From what has been said I think it fully appears, that there must be a very great Stagnation of our *American* Trade during these eight Months, and that this Stagnation may as readily force it to run in other Channels, as if the same Inconveniency were occasion'd by a War; but with this Difference, that it is possible, by an advantageous Treaty after a successful War, to retrieve the Losses we may sustain; but if we sustain these Losses during a Time of Peace, and in Consequence of the Methods we pursue to prevent them, we have then nothing to trust to but a Miracle.

Here I am glad of having a fair Opportunity of answering and refuting one Calumny that has been industriously propagated by the Enemies of your Measures. They have insinuated, as if the Article of the *Spanish* Account which has been admitted by us, was the Payment for the Ships taken by Sir *George Byng* in the Year 1718, and which by the Treaty concluded at *Madrid* in 1721 we were obliged to restore to *Spain*. In order to undeceive the World in this Particular, I shall by one Quotation from a celebrated † Pamphlet, which is said to be wrote by you, or at least by your Direction, make it appear, that it was once your Opinion, that this Claim of the *Spa-*

† *Vid.* Considerations upon the Treaty of *Seville*.

niards was unjust and groundless. And as the Publick has no Reason to presume that you have alter'd your Sentiments on this Head, I hope it will stop the Mouth of Calumny itself. In Pag. 21. of that Pamphlet we read as follows, *viz.*

“ But before I leave this Article (*viz.* the first separate Article of the Treaty of *Seville*) I must take Notice of that Part of it which relates to the Claim his Catholick Majesty may have to Recompence for the *Spanish* Ships of War, which were taken in the *Mediterranean* in the Year 1718. By the Treaty of 1721 it was agreed, that those Ships should be restor'd, or, in case of their being sold, the Value of them paid in Money to the King of *Spain*. As therefore the King of *Spain* had agreed, by the first Article of this Treaty, to a Confirmation of the Treaty of 1721, and had consequently acknowledg'd our Right to demand Restitution of all that we could claim in Pursuance of that Treaty; He, in his Turn, pretended to the Restitution of the Men of War above mentioned, or their Value, by virtue of the same Treaty. And this certainly was a Claim which, consider'd abstractedly from some Circumstances attending that particular Case, could not have been disputed. Those Circumstances were, that his Catholick Majesty did actually send Commissaries, in Pursuance of the Treaty of 1721. to *Port Mahon*, where the

“ said Men of War then lay, to demand the
 “ Restitution of them, and that they were
 “ really at that Time offer’d to those Commis-
 “ saries, but refused by them on account of
 “ their being in a decay’d condition, and unfit
 “ for Service, and were upon that Refusal
 “ drawn out of the Harbour by Order of the
 “ Governor, and sunk in the main Sea. This
 “ was what was alledged on our Part when
 “ the present Treaty was negotiating; but as
 “ the King of *Spain* still insisted upon his
 “ Right to the Restitution of the said Ships,
 “ though he was contented to refer that Pre-
 “ tension to the Discussion of Commissaries, I
 “ would fain know upon what Grounds, and
 “ by what Rule of Justice, his Majesty could
 “ have refused to comply with this Request;
 “ since it is notorious, that the Ships to which
 “ *Spain* was intitled by the fifth Article of the
 “ Treaty of 1721 were never actually restor’d,
 “ and his Catholick Majesty has at least a Right
 “ to have the Reasons why they were not re-
 “ stored, examin’d into. And there was the
 “ less Pretence for declining this Discussion,
 “ because we were sure it would upon *Exa-*
 “ *mination* appear, *That it was the Fault of*
 “ *the Spaniards only, that those Ships were not*
 “ *put into their Possession.*”

This is, I believe, a very just State of the
 Case betwixt *Great Britain* and *Spain*, with
 regard to the *Spanish* Claim for the Ships ta-
 ken in 1718; and no body who reads it but
 will

will immediately be of this Author's Opinion, that the Claim is unjust, even supposing that we had no Counterclaim to make upon *Spain*, by the great Expences which her Violence and Injustice obliged us to be at in defending *Gibraltar*, and fitting out two or three large Squadrons. Besides, Sir, I should be sorry if the very best Reason for our entering into War in the Year 1718, which was to humble the Power of *Spain* by Sea, had been frustrated by our restoring those Ships that supported her Power. And I think it was extremely lucky for the Interest of *Britain* that it was the fault of the *Spaniards* alone, that those Ships were not put into their Possession.

Having thus taken the Liberty to examine into the Effects, which this Convention must have upon our *American* Trade, and likewise obviated an Insinuation that gave your Friends great Uneasiness; I shall now beg leave to take a View of some Deficiencies which your Enemies pretend to find, both as to the Nature and Tenor of this Convention.

In the first Place, they insist, that by this Convention nothing has been done that can give our Merchants the least Satisfaction, with Regard to the future Regulation of their Commerce, and that they are in the same, if not in a worse Situation now, as when the *Spanish* Insolence was in its Height and Fury. There is not, say they, one Expression in it that tyes down the *Spaniards* from committing the same Depredations

predations again, nor is there one Case specified in which it is lawful for us to trade, even to our own Settlements in *America*; so that in Effect it may be properly called, a *Preliminary Stipulation betwixt two Crowns, to agree, if their Ministers don't fall out.*

In the next Place, these Gentlemen insist that we are in a much worse Case now than we were in at the Conclusion of the Treaty of *Seville*. When that Treaty was concluded, a great many Points were referred to Commissaries, but then these Commissaries were to give in their Report against a limited Time, and their Decision was to have no Effect till communicated and ratified by their Constituents. Thus a Door was open to rectify any false Steps they might take, and we had still the Wisdom of his Majesty and the Ministry to trust to. Whereas, by this Convention the Rights of the Nation are put into the Hands of Plenipotentiaries, who by their *full Powers may* if they *dare* yield them up. If this should be the Case, it would be but a poor Satisfaction for the Nation to be revenged on the Plenipotentiaries, or the Ministers who gave them their Instructions.

What adds to the Apprehensions of many that some fatal Concession of this Kind may be made, is, that it does not appear, that our Ministers who have negotiated at the Court of *Spain*, have perfectly understood so much of the Rights of Navigation and Commerce, as
founded

founded on Treaties, as to put the Differences betwixt us and *Spain* in a clear Light at that Court. If they had; give me leave to ask, whether there is a Possibility that the *Spaniards* could have fallen on one Shift, one Evasion, to elude the Consequences that must follow such a Representation? But if they have not, let me ask you again, whither the *Spaniards* had not sufficient Reason for what they did, on a Supposition that the Treaty of One Thousand Six Hundred and Sixty Seven, except I think in one Article, regarded only the *European* Trade, as that of One Thousand Six Hundred and Seventy did the *American*? Upon this Supposition the *Spanish* Ministers reasoned very artfully; they picked out all the Articles that favoured themselves in the latter Treaty, they denied us the Privilege of bringing any one Article of the former Treaty in our Favour, and thereby made very just Conclusions for their own Interests. But, Sir, it is not a Two-Penny Matter to *Britain* when the Question is about her *American* Commerce, if there had never been any other Treaty made with *Spain* besides that of 1670. Had our Negotiators sufficiently understood the Interest of *Britain*, they would never have suffered themselves to have been diverted from this plain Point, *No Search because no Trade*, by any *Chicane* of the *Spaniards*, or by any Arguments they could advance from other Treaties.

There

There is another very disagreeable Circumstance attending this Convention, which is, that there is no Regulation made of the intolerable Abuses which the *Spaniards* have introduced in the Processes of Confiscation, when the *British* Subject is the *Plaintiff*. Without a Regulation of this Kind, it is impossible that the most advantageous Treaty in our Favour on the Foot of this Convention should be effectual. This Apprehension is the better grounded, when we reflect on the numberless Hardships which our Merchants, in Consequence of the sixth Article of the Treaty of *Seville*, were subjected to, by soliciting their respective Claims at the Court of *Spain*, where Justice is to be supposed to be more impartially and readily administer'd, than it is at any inferior Judicature in the *Spanish* Dominions. This is an Inconveniency foreseen by the Lords, who protested against the Treaty of *Seville*, one of the Reasons of their Dissent being as follows :

“ Because the Obligation on our Merchants to
 “ make Proof of the Justice of their Demands
 “ for their Losses, at the Court of *Spain*, is, in
 “ our Opinion, an Hardship upon them, and no
 “ ways honourable for the Nation; and we are
 “ persuaded those unfortunate Gentlemen will
 “ undertake so troublesome and expensive a
 “ Journey with less Chearfulness, because they
 “ may fear their Claims are likely to be counter-
 “ balanced by others from the *Spaniards* ;
 “ and after all, they have only the slender
 “ Comfort

“ Comfort of hoping (if they think there is
 “ even any Room for them to hope) to get
 “ that Redress by Commissaries, which they
 “ have not hitherto been able to obtain by
 “ Plenipotentiaries.”

How exactly this Prediction has been fulfilled, the bleeding State of our Commerce, and the repeated Insults we still receive from *Spain*, are sufficient Proofs.

There is another Circumstance in this Convention that creates *Speculations* and *Suspensions* no way favourable to our *pacifick* Measures, and that is, the Time allowed to the Plenipotentiaries for finishing their Negotiation. This Objection is founded on the Effects which a like Stipulation in the Treaty of *Seville* had, and on an Observation that that Court has never consented to an Article of this Kind, but with a View of advancing her own Interest, while the Negotiation was carrying on. Any one who reflects on what happened after signing the Preliminary Articles in the Year 1728, and signing the Treaty of *Seville*, must be sensible of the Truth of this Observation. In the latter Instance, the Plan of all the succeeding Grandeur of *Don Carlos* was immediately executed, while all the Stipulations of that Treaty in favour of *Great Britain* were postponed, objected to, and frustrated. In the present Junction, we have had Information by AUTHORITY, that a Match is actually concluded betwixt a Daughter of *France* and a Son of *Spain*;

we have other Advices, tho' not so well grounded, yet too probable, that a double Marriage is on Foot ; and that the *Dauphin* of *France* is to be married to a Daughter of *Spain*. What Mischiefs may not these projected Intermariages be pregnant with? And what a formidable Appearance must they not have to the *Quiet* of *Britain* and the *Interest* of *Europe*? An ambitious, cunning, intriguing Woman influencing the *Spanish*, a cool, wise, provident Minister directing the *French* Counsels, and all these Characters so blended that every Quality rather corrects and strengthens than damps or weakens its opposite.

I now come to consider a Point, that at first Sight seems to be very favourable for this Convention ; which is, that the whole Proceedings of the Plenipotentiaries shall be according to the Treaties of the Years 1667, 1670, 1713, 1715, 1721, 1728, and 1729, including that of the Affiento of Negroes, and the Convention of 1716 ; this, I say, would have carried a very favourable Appearance for the Convention, had it not been unluckily observed, that a like Assurance is given in the fourth Article of the Treaty of *Seville*, which contains these Words :

“ It having been agreed by the Preliminary
 “ Articles, that the Commerce of the *English*
 “ and *French* Nations, as well in *Europe* as in
 “ the *Indies*, should be re-established on the
 “ Foot of the Treaties and Conventions ante-
 “ cedent to the Year One Thousand Seven
 “ Hun-

“ Hundred Twenty Five, and particularly,
 “ that the Commerce of the *English* Nation in
 “ *America* should be exercised as heretofore ;
 “ it is agreed by the present Article, that all
 “ necessary Orders shall be dispatched on both
 “ Sides, without any Delay, if they have not
 “ been sent already, as *well for the Execution*
 “ *of the said Treaties of Commerce*, as for sup-
 “ plying what may be wanting for the entire
 “ Re-establishment of Commerce, on the Foot
 “ of the said Treaties and Conventions.”

Now it being notorious that either this Article was not complied with, or that the *Spaniards* understand these Treaties in a quite different Sense from what we do, is there not great Reason to fear a like Omission, or a like Misunderstanding, should happen in the present Case ; especially, as *Spain* is in a much better Condition now, than she was in at the Time when the Treaty of *Seville* was concluded. Therefore a Stipulation *that the Proceedings of the Plenipotentiaries shall be according to these Treaties* must be very ineffectual, unless, previous to that Stipulation, the Meaning of these Treaties had been agreed to and absolutely determined. But if there should be a *Spanish* SENSE and an *English* SENSE of the same Treaties, I am at a Loss to know how these are to be determined ; therefore I think it would have been extremely convenient to have had an *odd* Number of Plenipotentiaries, that in Case they should be equally divided in

their Opinions there should be a *casting* Vote, otherwise there may be new Plenipotentiaries appointed for reconciling the Differences of *Opinion* among those appointed by this Convention.

But there is one great Consideration that takes Place in this Proposal, and that is, of what Nation *shall this fifth* Plenipotentiary be? Really, I think it would be hard if he were a *Spaniard*, and possibly the *Spaniards* may object to his being an *Englishman*; therefore I should be humbly of Opinion that it would be very proper that he were of neither Nation, but a *Frenchman* or *Neapolitan*; but I am rather inclined for the former, because that People have lately got an excellent Knack at *making up Differences*; are possessed both of *Disinterestedness* to recommend their *Mediation*, and of *Power* to support their *Decision*. I shall conclude these Observations with one general Consideration. Before this Convention was published it was much talked of, and the World was much divided in their Opinions about it. Some said that it was expressly stipulated that *no Search shall be allowed on the open Seas*; others were of Opinion that this Article had received certain Qualifications, but every Body thought that somewhat was certainly done in this important Article. They were the rather inclined to suppose this, because it appeared to be the Sense of Parliament that a Stipulation

tion of that Kind was a *sine qua non* of any future Negotiation with *Spain*.

The Convention appears in Print BY AUTHORITY, no such Stipulation is contained in it, and no Regulation laid down for the future Exercise of our *American Commerce*; nor any one Article in it in favour of *Britain*, that was not stipulated by the ineffectual and disregarded Treaty of *Seville*. There is indeed a stipulated Sum to be paid for indemnifying our Merchants for the unlawful Captures made by *Spain*. But no more is done by this than what was done by the fifth Article of the Treaty of *Seville*; nor indeed so much; for by that Article his Catholick Majesty not only engages to cause Reparation to be forthwith made for Damages, but to publish the most rigorous Prohibitions for preventing the like Violences on the part of his Subjects. The Question therefore that naturally occurs upon this Consideration is, what worse Terms could we have had before the fitting out of a Fleet, which cost the Nation about Five Hundred and Twenty Thousand Pounds. It would be Presumption in me to give any Answer to this Question; but I make no doubt but a proper Answer will be given at a proper Time, and in a proper Place.

The only Consideration, which I shall now take the Liberty to trouble you with, shall regard a Paper handed about for some Days, and said to contain a *Protest* transmitted by the King of *Spain's* Minister to our Ministers here,
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and by them communicated to the *South-Sea* Company.

As this Paper was not publish'd *by Authority*, I shall not take it for granted that it is genuine, and shall only offer a few Arguments why I conceive it to be spurious, and publish'd only with a View to render the Measures of the Ministry more odious, for accepting a Peace clogged with such a Demand, and subjected to such Restrictions as that Paper contains.

In the first Place, if the *Spaniards* had made a Demand of 65,000 Pounds, it is more than probable their Claim must have been counterbalanced by a much larger Debt, to which this Nation and that Company is intitled from *Spain*. If any Credit is to be given to common Report, the Company has a larger Claim upon his Catholick Majesty, allow'd even by himself to be just; and if we are to judge from their own Representations of Facts, they have been treated in a most scandalous Manner by that Court. But as the State of Affairs betwixt the King of *Spain* and the Company is become now very much the Subject of Conversation, I shall insert into the *Appendix* some Articles from the State of their Affairs, which they presented to his late Majesty. By this it may be easily seen how well founded the *Spanish* Claim is, if any such Claim has been made.

Amongst the Debts that may be justly claimed by the Nation, we may reckon the following. About 21 or 22 Years ago his Majesty refer'd
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the Examination of our Right to *Campeachy*, and to cut Logwood in the Bay of *Honduras*, to the Lords Commissioners of Trade and Plantations, who gave as their Report, that our Right to both was clear and undoubted. In that Report they likewise mentioned, that in the Year 1715, 5863 Tons of Logwood were imported into the Port of *London*, which by a proportionable Calculation, *London* being accounted a Third of the Nation's Trade, amounts to 17589 Tons *per Ann.* The smallest Account we have of the Damage we sustain'd at that time mentions upwards of 47 Ships then taken; other and more authentick Accounts make them 62; and few of these under 150, some upwards of 350 Tons Burthen. We shall suppose that each at a Medium was 150 Tons Burthen, and 62 taken, this amounts to 9300 Ton. We will suppose the Value of the Ships to be 7 *l.* *per Ton*: This amounts exactly to the Sum demanded by this pretended *Protest* from the *South-Sea Company*, viz. 65000 *l.* But this is only the Neat Damage our private Merchants sustained in their Shipping, and is but a Trifle to what the Nation sustained in her Trade, and the Crown in its Revenue, by this Injury. That Damage, if calculated and brought down to this Time, cannot amount to less than Five Millions of Money.

The next just Claim that *Great Britain* has upon *Spain* is the Charge she was at in defending *Gibraltar*. I believe it will not be

denied by any *Englishman*, that the *Spaniards* had less Provocation from us to besiege *Gibraltar*, than we had from them when we attacked them in 1718: Yet by Treaty we obliged ourselves to restore to them the Ships they lost there, and, if they were not restored, it was entirely owing to themselves.

These, Sir, are the Considerations I had to trouble you with on this Occasion, and must beg leave to conclude with an admirable Sentence of the Author from whom I borrow'd my Quotation: *Quæ causa justior est Belli gèrendi, quam servitutis depulsio? in qua, etiamsi non sit molestus dominus, tamen est miserrimum posse, si velit.*

I am, SIR,

Yours, &c.

A P P E N D I X.

A State of the Difficulties which the South-Sea Company labour under, and in which they pray to be Redress'd, Presented to his late Majesty Anno 1718.

I. **W**HEREAS upon making the last Peace, his Catholick Majesty did grant to her late Majesty two *Cedulas*, or *Licenses*, dated the 17th Day of *June*, 1713, which were confirmed by Instruments of Validation of the 15th Day of *June*, 1714, each for a Ship of 5 or 600 Tons, to go with Goods and Merchandise to the *Spanish West-Indies*, one of which *Cedulas* and Validations was afterwards filled up with your Majesty's Ship the *Elizabeth*, and to go to *Vera Cruz*; and the other License and Validation was filled up with your Majesty's Ship the *Bedford*, and to go to *Cartagena*, or *Porto Bello*: Which Licenses and Validations your Majesty was graciously pleas'd to assign to this Company. In pursuance of which last-mention'd License they loaded on board the said Ship *Bedford* a very rich Cargo, short of the Tonnage granted, and dispatch'd her for *Cartagena* in *November* 1715; where, upon her Arrival, the Governor and Royal

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Officers caused the Goods to be measured by unwarrantable Rules, making the same amount to 2117 Tons, and one Third of a Ton (exclusive of about 65 Tons of Iron, which at that Juncture the Factory thought necessary not to land, but to send back in the same Ship to *Jamaica*), and confiscated and condemned to be immediately sold 1517 Tons, and one Third of a Ton, of the most valuable Part of the said Cargo, as exceeding the 600 Tons granted by the said License, reserving the remaining 600 Tons (as they called it) to his Catholick Majesty's Decision, whether the same should be also confiscated, or not, and obliged the Company's Factor to give Security for answering the Value, even of that Part which they called 600 Tons: an Account of all which unjust Proceedings of the said Governor and Royal Officers having been transmitted to the Company by their Factors, the Company humbly represented the same to your Majesty, by whose gracious and powerful Interposition his Catholick Majesty was pleased to grant his Royal *Cedula* of the 12th of *November* 1716, directing the Re-measurement of the *Bedford's* whole Cargo. And the same being measured according to the Rules prescribed by the said *Cedula*, amounted to no more than 525 Tons, and three quarters of a Ton (including the 65 Tons of Iron, which, as aforesaid, the Factory did not land, but sent back to *Jamaica*) by which may be seen the Exorbitancy of their
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first Measurement, and the Injustice done the Company in the aforesaid Confiscation; and the Company's Goods had been actually sold by the King of *Spain's* Officers, under Colour of the said Confiscation, had not the Company's Factors given an excessive Sum of Money for Prevention thereof, and for obtaining Leave and Time to appeal to the Court of *Madrid*. But tho' a Re-measurement was granted as aforesaid, yet the Officers were not punished for such their unjustifiable Proceedings, nor hath any Recompence or Satisfaction been made the Company for the Damage and Injustice done them. Besides which, the said Governor and Royal Officers at *Carthagena* did also pretend, that the License for the *Bedford*, being filled up as consigned to *Carthagena* or *Porto Bello*, the whole Cargo was to be disposed of only at *Carthagena*, the Ship coming first thither, and would not permit any Part of it to be sent to *Porto Bello*; whereas the Company always understood, that by the License they had full Power to sell such part of the Cargo as they thought fit at *Carthagena*, and the rest at *Porto Bello*; at which last Place they proposed to sell the greatest part of the Cargo, and accordingly had provided the greatest part for these Provinces which are supplied from *Panama*, and the lesser part for the Provinces which are supplied from *Carthagena*: And tho' the aforesaid License was filled up for *Carthagena* or *Porto Bello*, yet the

Company conceived the Word *or*, to be synonymous to *and*, and that it had respect to the Recourse the Galleons always took, all the World knowing, that the Galleons which made their Fair at *Porto Bello* did constantly go first to *Carthagena*. And in the Declaration given to Sir *Patrick Lawless*, his Catholick Majesty's Minister then at this Court, by the then Secretary of State, concerning the filling up the License for the *Bedford*, it is expressed, that the said License was fill'd up for *Carthagena* and *Porto Bello*; so that the Company did not doubt but that the true Intent and Meaning of the License was, that the *Bedford* might land any Part of her Cargo at *Carthagena*, and proceed with the rest to *Porto Bello*. So that notwithstanding the Goods were discharg'd from the aforesaid Confiscation, upon their being re-measured according to the King of *Spain's* aforesaid *Cedula*, yet the Company has hitherto had but little Benefit from such Releasement, the greatest Part of the Cargo, which, as aforesaid, was provided for *Porto Bello* not having been permitted to be carried thither, until his Catholick Majesty was pleased to grant his Royal *Cedula* for that Purpose, which was not obtained till *December* last; since which the same has been transmitted to the Company's Factors in order to be put in Execution.

2. And as for the *Elizabeth*, the other Licens'd Ship, which went to *Vera Cruz*, notwithstanding his Catholick Majesty's aforesaid

License, and the Validation thereof, specifies, that her Cargo might be landed, sold, and traded with freely, without paying any kind of Duties in the *Indies*, with which his Catholick Majesty did for that time dispense, on condition that upon all the Profits and Gain which should be made on the said Goods, 10 *per Cent.* should be paid to his Catholick Majesty; nevertheless there has been demanded by the King of *Spain's* Officers in the said Port of *Vera Cruz*, an *Alcavala* on all the Goods of the said Ship, which should by the Company be sold out of *Vera Cruz*, which Duty amounts to a very great Sum; and the Company's Factors were oblig'd to give Bond to pay the same in case the Court of *Madrid* shall not think proper to give Relief therein; concerning which, *Autos* having been transmitted to the Court of *Madrid*, and the Company's Agent there having by their Direction made several Applications for Redress, they have been so far from granting the same, that instead thereof, and without giving Notice to the Company, or giving them a Hearing thereon, his Catholick Majesty was pleased to send a *Cedula*, dated the 22d of *January*, 1717, directly to *Vera Cruz*, whereby he has decreed, that *Alcavalas* shall be paid on all the Company's Goods which shall be sold out of *Vera Cruz*. This Imposition by the said *Cedula* also extends to the Goods by the Company's annual Ship, which shall be sent to *Vera Cruz*; notwithstanding by the 42d Article of the *Af-*
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siento it is expressly stipulated, that they are to be free of all Duties in the *Indies*.

III. And whereas by the 42d Article of the *Affiento* Treaty, his Catholick Majesty was pleased to grant to this Company, the Liberty of sending every Year to the *Indies*, during the Term of 30 Years therein mentioned, a Ship of 500 Tons, upon Condition that the Merchandise with which the said Ship should be laden, should not be sold but only at the Time of the Fair. And by a subsequent Treaty or Convention, entered into between your Majesty, and his Catholick Majesty, dated the 26th Day of *May*, 1717, his Catholick Majesty has been pleased (in Consideration that the Company had not enjoyed the Liberty for the first three Years, to send the said annual Ship of 500 Tons) to compensate the same by granting them for ten Years, commencing from the Year 1717, inclusive, a Ship of 650 Tons in lieu of the said Ship of 500 Tons for the said ten Years. And his Catholick Majesty was farther pleased, by the said last mentioned Treaty or Convention, to declare, that there shall be Fairs regularly kept every Year in *Peru*, or in *New Spain*, and that Advice should be given to the Court of *England*, of the precise Time, in which the Flota or Galleons shall depart for the *Indies*; that the Company may, at the same time, cause their Ship to depart; and that in Case the Flota or Galleons shall not be departed from *Cadix* in all the Month of
June,

June, it shall be permitted to the Company to cause their Ship to depart, giving Advice of the Day of its Departure to the Court of *Madrid*, or to the Minister of his Catholick Majesty who shall be in *London*; and being arrived at one of the three Ports of *Carthagena*, *Porto Bello*, or *Vera Cruz*, she shall be obliged to stay there for the Flota or Galleons, four Months, to begin from the Day of the Arrival of the said Ship; and when that Time is expired, it shall be permitted to the Company to sell their Merchandise without any Obstacle. In pursuance of which Treaties, the Company did the last Year build on Purpose, and send to *Vera Cruz*, a Ship with Goods and Merchandise, and have also built another for the present Year; and for that Purpose, have provided a Cargo proper for *Carthagena*, and *Porto Bello* of about 300,000 *l.* Value, the greatest Part whereof has been loaded on Board, and they were ready with the Remainder, in order to dispatch her at the End of the Month of *June*, pursuant to the said Convention. But the Chevalier *Eon*, his Catholick Majesty's Director for the Affairs of the *Assiento*, after the entire Cargo was provided, and in great part loaded, as aforesaid, did, on the 5th Day of *June* last, lay before the Court of Directors of the said Company, a Letter which he had received from Don *Joseph Roderigo*, Secretary of State to his Catholick Majesty, dated the 26th Day of *May* last, for suspending the Departure of
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the Company's annual Ship for this Year ; which Order of his Catholick Majesty is directly contrary to the aforefaid Convention concluded with your Majesty, and thereby the Company must inevitably be very great Sufferers, by the Decay of their Goods, (they being chiefly of the Woollen Manufactures of this Kingdom, and consequently very liable to the Moth, and other Vermin) by the Charges of Warehouse Room, Loss of the Interest of their Monies, the Charges they have been at in Building, Manning, Victualling, and Equipping the said Ship, she being unfit for any other Trade, and by many more pernicious Consequences which do attend the same.

IV. Whereas his Catholick Majesty by his *Cedula* of the 21st Day of *May* last, grounded upon the 30th Article of the *Affiento*, did grant Permission to the Company, to send a Ship of 300 Tons to the Islands of the *Canaries*, to take out a Register of Frutos to be transported to the *Indies*, paying the established Duties, and in the form according to what was granted to Don *Bernardo Marin* and the Company of *Portugal*, as is provided in their Contract. Whereupon the Company have sent a Ship to the *Canaries*, to take in such Frutos, in order to be transported to the *Indies* ; but the Custom-House Officers would not suffer the same to be laded, unless the Company's Agent would pay 7 *per Cent.* Custom, notwithstanding the several Protests he made, and also
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proved, even by the Custom-house Books, that in the Year 1697 the *Portuguese Assiento* Company paid no more than Two and a half *per Cent.* And this Company are by the 39th Article intituled to all the Privileges and Advantages which former *Assientists* enjoy'd. And all that the Company's Agent could obtain, was, an Allowance of five Months Time for the Payment of the Four and a half *per Cent.* in Dispute (Part of the said 7 *per Cent.*) upon giving Security to abide the King of *Spain's* Determination to be made within that Time.

XV. The Company have been obliged to pay very exorbitant Port-Charges for the Ships they have dispatch'd on Account of the *Assiento*, and particularly at *Buenos Ayres*, where they have been obliged to pay as follows, *viz.*

		Pieces of Eight.
For the <i>Warwick</i> , which carried the	}	1612
Factory - - - - -	}	
<i>William</i> and <i>Sarah</i> , Burthen 162	}	1034
Tons, which only carried over a	}	
Pacquet, containing the Notifica-	}	
tion of the Peace being proclaimed	}	
by the King of <i>Spain</i> , with other	}	
Papers and Dispatches from his	}	
Catholick Majesty - - - - -	}	
<i>Indian Queen</i> - - - - - 220	} Tons.	889
<i>Europe</i> - - - - - 300		957
<i>Wiltshire</i> - - - - - 142		923
<i>Prince of Wales</i> - - - - - 260		889
<i>Windsor</i> - - - - - 240		1363
H		The

The Company do humbly hope his Catholick Majesty will be pleased to settle a reasonable Tariff for all the Ships they shall dispatch on account of the *Assiento* for the future; and that for the great Exactions which have been put on them hitherto, they may have a suitable Satisfaction.

XIX. The Company have receiv'd Advice, that the *Spanish Guard de Costa* Ships had stopped several of the *Assiento* Vessels, and taken out of them several Things not Contraband, particularly out of the Sloop *Three Brothers*, *William Greenway* Commander, to the Value of 26 l. 9 s. 9 d. first Cost: That *Edmond* and *John Denny*, two Supercargoes, who had the Company's Passes to go with Negroes to the Island of *Trinidad*, had been considerable Sufferers by one of the said Ships taking their Sloop from that Island, and carrying her down to *Cumana*, to which Place one of the Owners was obliged to go to recover his Right; and tho' the said Sloop was returned by the Governor of *Cumana*, yet the Loss and Charges sustained thereby was, as the Company are assured, to the Owners Detriment above 2000 Pieces of Eight. The Company are informed, that the Governor of *Trinidad* has acquainted his Catholick Majesty with the said *Denny's* Case, and the *Autos* of the Proceedings relating thereto have been transmitted by the Company to their Agent at *Madrid*. Wherefore the Company hope Satisfaction will be made to the
Sufferers

Sufferers for the aforesaid Damages and Charges ; and that the Offenders may be punished, in order to discourage the like Practices for the future.

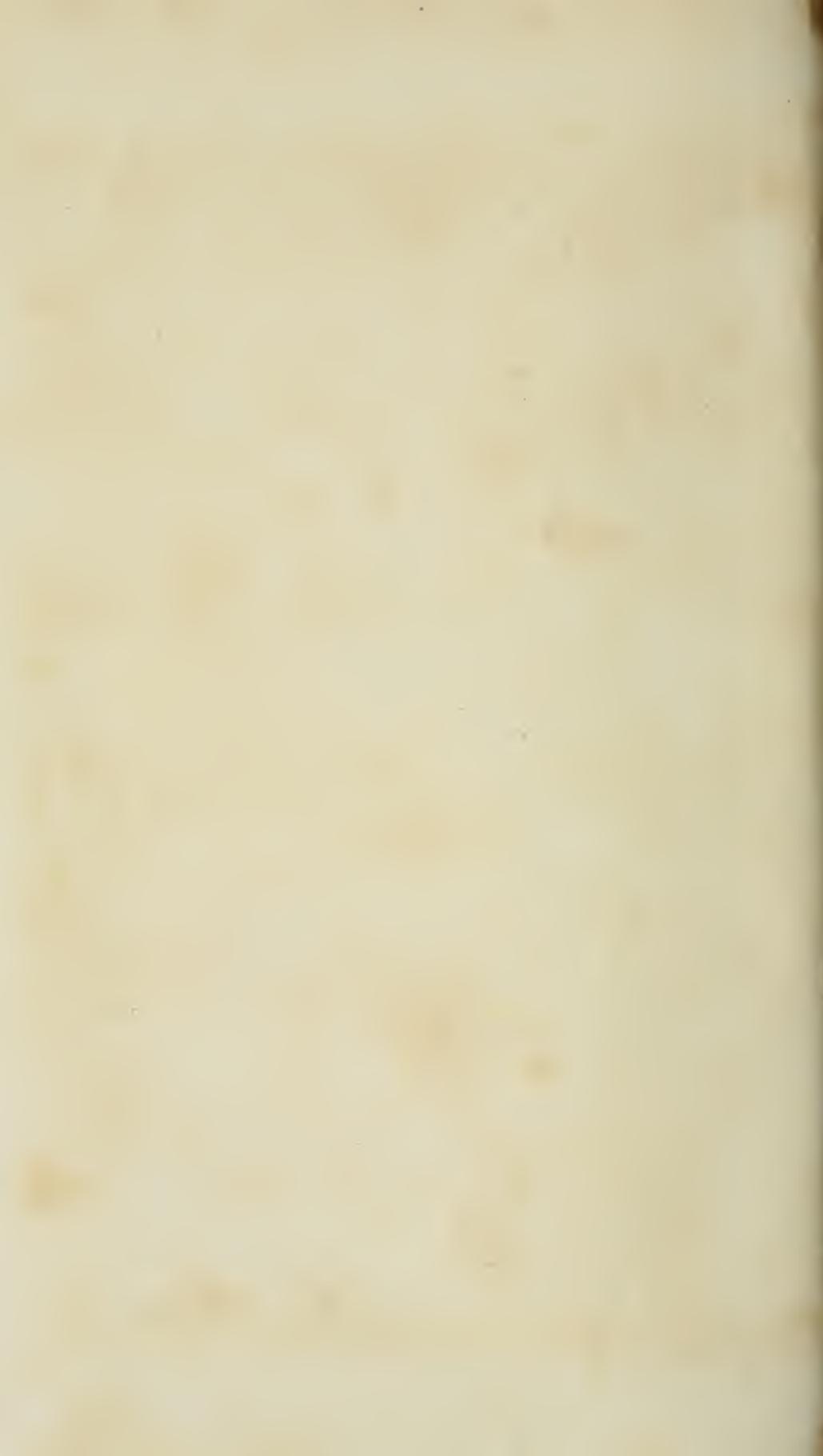
XXIII. After the *French Assiento* was expired, and upon Advice that the *Assiento* was concluded with *England*, the *Fiscal*, or King's Procurator at *Panama*, immediately imbarg'd about 70,000 Pieces of Eight the *French* had in Cash, and put the same, by way of Deposit, in the Royal Coffers. They likewise imbarg'd the Houses the *French* had built for their Negroes, valued at about 30,000 Pieces of Eight, until they justified they had not imported any more Negroes than they were permitted by their *Assiento*: Which imbarg'd Money and Houses this Company's Factors have since reimbarg'd in the Name of the Royal Company of *England*: They have also farther imbarg'd 5558 Pieces of Eight of the said late *French Assiento* Company's Money, which are still remaining in the Royal Coffers at *Panama*; and also two Slaves, and several Necessaries in the Negro-House, amounting to about 600 Pieces of Eight: All which Imbargments made by this Company's Factors, as aforesaid, were to answer what the said late *French* Company are indebted to this Company on Account of their introducing, seizing, and indulging Negroes during the present *Assiento*: And the Company's Factors have petition'd for having the same paid and deliver'd to them, but the
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same has not been complied with ; *Autos* of all the Proceedings relating to which Imbargments have been sent to the Company, and they have transmitted the same to their Agent at *Madrid*.

And forasmuch as the *French* Company's introducing, seizing, and indulging Negroes, as aforesaid, is contrary to the present *Assiento* and his Catholick Majesty's *Cedulas* in that behalf, and has been of very great Damage to this Company, they therefore desire his Catholick Majesty will please to release the said 70,000 Pieces of Eight, and Houses, from the aforesaid first Imbargment, that this Company may have the Benefit of the same ; and that all the aforesaid Money, Houses, and Effects may be applied, so far as the same will extend, to make good the aforesaid Damages, and also what the late *French* Company are indebted to this Company on Account of Negroes imported, seized, and indulged by them during the present *Assiento*.

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